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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/579,370	05/26/2000	David Friedman	BUFFALO 201	7613

10037 7590 08/24/2004

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EXAMINER

HOM, SHICK C

ART UNIT	PAPER NUMBER
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2666

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/579,370

Applicant(s)

FRIEDMAN ET AL.

Examiner

Shick C Horn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/26/00.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/18/00, 9/9/02</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81. No new matter may be introduced in the required drawing.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in

correcting any errors of which applicant may become aware in the specification.

Claim Objections

4. Claims 1-10, 16, and 18 are objected to because of the following informalities: in claim 1 line 3, claim 7 line 1 delete "user preferences" and insert ---user's preferences-- for consistence. In claim 4 line 1, the words "a user" seem to refer back to the user recited in claim 1 line 3. If this is true, it is suggested changing "a user" to ---the user---. In claim 6 line 3, claim 7 line 2 correct typo by deleting "Web site, the seeking" and "a preferred a communications mode" and insert ---the Web site seeking--- and ---a preferred communications mode---; respectively. In claim 10 line 2, the words "a voice communication" seem to refer back to "a voice communication session" recited in claim 6 lines 3-4. If this is true, it is suggested changing "a voice communication" to ---the voice communication session---. In claim 16 line 2, the words "a voice communication" seem to refer back to "a voice communication" recited in claim 11 lines 2-3. If this is true, it is suggested changing "a voice communication" to ---the voice communication---. In claim 18 line 2, the use

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of the trademark Microsoft Windows has been noted. It should be capitalized wherever it appears and be accompanied by the generic terminology. Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 112

5. Claims 1-16 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1, 11 line 3 and claim 10 line 1, which recite "the user" lack clear antecedent basis because no user have been previously recited in the claims and therefore the limitation is not clearly understood. In claim 6 line 3 which recite "the user's status" lack clear antecedent basis. In claim 11 line 3 which recite "the communication" lack clear antecedent basis and is not clear as to whether it is reciting ---the voice communication--- of claim 11 lines 2-3. In claim 20 line 2, which recite "a component" is not clear as to whether it is reciting ---the

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component--- of claim 20 lines 1-2 or ---another component-
--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-9, 11-12, 14-17, and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Petty et al. (6,337,858).

Regarding claim 1:

Petty et al. disclose the internet telephony system comprising a browser display having a hyperlink (see Fig. 5 and col. 9 lines 7-33 which recite the screen display for browsing the WWW including the request for a voice connection and the hyperlink), said hyperlink communicating with a server (see col. 7 line 65 to col. 8 line 18 which recite the web server), retrieving a user's preferences

(see col. 8 line 45 to col. 9 line 6 which recite the preference file for the user), and initiating a voice communication with the user, through a communications channel defined by the user preferences (see col. 10 lines 8-65 which recite the connection medium preference).

Regarding claim 6:

Petty et al. disclose the Internet telephony system comprising a client system having an Internet browser (see Fig. 5 and col. 9 lines 7-33 which recite the screen display for browsing the WWW including the request for a voice connection, the hyperlink, and the client), and a server hosting a Web site (see col. 7 line 65 to col. 8 line 18 which recite the web server), wherein a message is transmitted from the server to the client system based on the user's status with respect to Web site, the seeking to establish a voice communication session (see col. 10 lines 8-65 which recite the web server sending a preference form to the client requesting the information when the client requested a VoIP call connection).

Regarding claim 11:

Petty et al. disclose the Internet telephone system (see col. 6 lines 10-29 which recite the Internet including telephone network), comprising a browser display having a

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hyperlink (see Fig. 5 and col. 9 lines 7-33 which recite the screen display for browsing the WWW including the request for a voice connection and the hyperlink), said hyperlink communicating with a server (see col. 7 line 65 to col. 8 line 18 which recite the web server), retrieving a user-related data (see col. 8 line 45 to col. 9 line 6 which recite the preference file for the user), and initiating a voice communication with the user (see col. 10 lines 8-65 which recite the web server sending a preference form to the client requesting the information when the client requested a VoIP call connection), wherein the user is charged for the communication (see col. 6 line 55 to col. 7 line 16 which recite the bills for usage and charges being prepared for the service subscribers).

Regarding claim 17:

Petty et al. disclose the telephony server (see col. 7 line 65 to col. 8 line 18 which recite voice communication using a web server), comprising an application program communicating directly with telephony hardware to implement telephony system control (see abstract which recite the use of computer controlled telephony hardware for voice communication and col. 6 line 55 to col. 7 line 16 which recite the software and hardware for originating voice

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calls from a data network clearly reads on the application program), and an application programming interface, wherein said application program includes as one of its is application programming interface functions a call to an external program (see col. 7 lines 54-61 which recite the web interface for ISP and subscriber administration functions clearly reads on an application programming interface including call to external program).

Regarding claims 2, 7, 12:

Petty et al. disclose wherein said user preferences define a communications mode selected from the group consisting of voice over IP and analog voice (see abstract and col. 5 line 54 to col. 6 line 9 which recite the voice communications may be voice over Internet or PSTN voice connections).

Regarding claims 3, 8, 14:

Petty et al. disclose wherein the user's preferences are retrieved in a cookie (see col. 8 line 45 to col. 9 line 6 which recite the preference file for the user including a cookie).

Regarding claims 4, 9, 15:

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Petty et al. disclose wherein a cookie identifies a user (see col. 10 lines 8-65 which recite the cookie being attached to the user's browser).

Regarding claims 5, 16:

Petty et al. disclose wherein the user, in order to communicate with the server to request a voice communication, has only a single essential action (see col. 3 lines 7-13 which recite the use of the voice communication request button clearly reads of a single essential action for requesting voice communication).

Regarding claim 21:

Petty et al. disclose a communications link to a Web server, for coordinating telephony functions and Web server functions (see col. 6 lines 44-54 which recite the Web serve for telephony functions).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 10, 13, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petty et al. (6,337,858) in view of Smith, III (6,772,139).

Regarding claims 10, 13, 18-20:

For claims 10, 13, 18-20, Petty et al. disclose the telephony system and server described in paragraph 7 of this office action. For claims 10, 13, 18-20, Petty et al. disclose all the subject matter of the claimed invention with the exception of wherein the user, in order to communicate with the server to request a voice communication, the user's status with respect to the web

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site comprises an analysis of a shopping cart as in claim 10; wherein the user charge is a micropayment as in claim 13; wherein the application program is a dynamic link library adapted to run under Microsoft Windows as in claim 18; wherein the application program may spawn a plurality of instances of the external program simultaneously as in claim 19; and wherein the application program has a component running on a telephony server and a component running on each telephony client as in claim 20.

Smith, III from the same or similar fields of endeavor teach that it is known to provide wherein the user, in order to communicate with the server to request a voice communication, the user's status with respect to the web site comprises an analysis of a shopping cart (see col. 10 lines 49-59); wherein the user charge is a micropayment (see col. 15 lines 54-65); wherein the application program is a dynamic link library adapted to run under Microsoft Windows (see col. 9 lines 13-28); wherein the application program may spawn a plurality of instances of the external program simultaneously (see col. 3 line 59 to col. 4 line 8); and wherein the application program has a component running on a telephony server and a component running on each telephony client (see col. 11 lines 9-20). Thus, it

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would have been obvious to the person having ordinary skill in the art at the time the invention was made to provide wherein the user, in order to communicate with the server to request a voice communication, the user's status with respect to the web site comprises an analysis of a shopping cart; wherein the user charge is a micropayment; wherein the application program is a dynamic link library adapted to run under Microsoft Windows; wherein the application program may spawn a plurality of instances of the external program simultaneously; and wherein the application program has a component running on a telephony server and a component running on each telephony client as taught by Smith, III in the telephony system and server of Petty et al. The web site having an analysis of a shopping cart; wherein the user charge is a micropayment; wherein the application program is a dynamic link library adapted to run under Microsoft Windows; wherein the application program may spawn a plurality of instances of the external program simultaneously; and wherein the application program has a component running on a telephony server and a component running on each telephony client can be implemented by providing the software including these functions into the browser software of Petty et al. The

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motivation for providing web site having an analysis of a shopping cart; wherein the user charge is a micropayment; wherein the application program is a dynamic link library adapted to run under Microsoft Windows; wherein the application program may spawn a plurality of instances of the external program simultaneously; and wherein the application program has a component running on a telephony server and a component running on each telephony client as taught by Smith III in the system and device of Petty et al. being that it provides the added features of extending the link database for analysis of shopping cart function, making micropayment of items using know Microsoft Windows operating system for operation efficiency of the system.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Guheen et al. disclose a business alliance identification in a Web architecture framework.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to

Shick C Hom whose telephone number is 703-305-4742. The

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examiner can normally be reached on Monday to Friday with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 703-308-5463. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SH

